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EXAMINER

NILANONT, YOUAPAPORN

ART UNIT

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4121

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,928	Applicant(s) ETOH, MITSUMASA	
	Examiner YOUAPORN NILANONT	Art Unit 4121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01 April 2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. The disclosure is objected to because of the following informalities: "CD data" mentioned on page 6 line 5 appears to be a misspelling of "CG data", "steps V4, V5" on page 9 line 31 appears to be a misspelling of "steps C4, C5", and there are several inconsistent use of the terms such as "scene data", "scenario data" and "scene information".

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:
4. The term "scenario-data-distribution means" recited in claim 1 and claim 3 and the terms "special-scenario-data-registration means" and "special-image-data-creation means" recited in claim 3 are not supported by the specification. For the purposes of examination, The term "scenario-data-distribution means" has been construed to be the same as the "transmission unit 16" of figure 1, the term "special-scenario-data-registration means" has been construed as "special-scenario-creation unit 14", and the term "special-image-data-creation means" has been construed as "CG-data-creation unit 15" since they are described as having the same functions in the specification as in the claims.

Claim Construction

5. The “competition-progression-input means”, “scenario-data-creation means”, “scenario-data-memory means”, “scenario-data-distribution means” of claim 1 and the “special-scenario-data-registration means”, “special-image-data-creation means”, and “scenario-data-distribution means” of claim 3 have not been construed under the provisions of 35 U.S.C. 112-6th paragraph because they do not include a corresponding “for” modifier.

Claim Objections

6. Claim 7 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim *cannot depend from any other multiple dependent claim*. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3, 6, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term “unimagined” recited in claims 3 and 6 is vague. While the specification may have given examples of events that can be considered special scenario in a baseball game, these same examples may not be applicable to other type of progression data. Furthermore, unimagined conditions to one person may not be

unimagined conditions for another. Therefore, the term "unimagined conditions" as recited in claims 3 and 6 renders these claims indefinite. For the purpose of applying prior art, the term has been construed as referring to an occurrence of event that has not yet been registered in the system and thus new data and image need to be created for such event.

Claim 8 recites a method of distributing the contents of a sports competition but does not explicitly describe how the contents are distributed by the claimed method. Claim 8 claims a method without reciting any method steps or actions and only recites its intended uses of the method, which do not limit the claim. Therefore, claim 8 as recited is vague and indefinite. See MPEP § 2171.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Subject matter as claimed in claim 8 does not fall within at least one of the four statutory subject matters. It is claimed as a method, but does not recite any steps in doing its claimed function of distributing contents, and thus not a process. Furthermore, subject matter of claim 8 clearly is neither, a machine, a manufacture, nor a composition of matter. In addition, claim 8 claims a data distribution method and merely states its intended use of a method of distributing contents such as image data, scenario data, and a program. Therefore, this claim

would impermissibly cover every method of distributing data known and thus, unpatentable under § 101.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-2, 4-5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Barstow et al. (U.S. 6,204,862).

12. With respect to claim 1, the Barstow reference teaches a data distribution system that distributes sports competition contents from a data-distribution apparatus to a terminal via a communications network (see Figure 1). The reference also teaches that the system comprises: a competition-progression-input means (see Figure 1, observer with computer 1, 2) of inputting the progression of said sports competition (see Column 2 lines 19-21); a scenario-data-creation means of creating scenario data that shows the progression of said sports competition based on input from said competition-progression-input means (see Figure 1 Computer 2, Encoded Description 3); a scenario-data-memory means of storing said scenario data created by said scenario-data-creation means (see Figure 1 Database Computer 4,5); and a scenario-data-distribution means of distributing said scenario data stored in said scenario-data-memory means to a terminal via a communications network (see Figure 1 Computer 4, Figure 6, Figure 8); and where said terminal reproduces said sports competition

contents as images based on pre-stored image data and said scenario data (see Column 1 lines 23-25, Figure 13).

13. With respect to claim 2, the Barstow reference discloses the data distribution system of claim 1 wherein said terminal reproduces said sports competition contents as CG based on CG data, which are stored as said pre-stored image data, and said scenario data (see Figure 14-19, Column 11 lines 47-51, Column 12 lines 1-5).

14. With respect to claim 4, the Barstow reference teaches data distribution method of distributing sports competition contents from a data-distribution apparatus to a terminal via a communications network (see Figure 1) wherein said data-distribution apparatus creates scenario data showing the progression of the sports competition based on the input progression of said sports competition (see Figure 3, Column 3 lines 49-52), stores in memory said created scenario data (see Column 3 lines 54-56), and distributes said stored scenario data to said terminal via said communications network (see Column 8 lines 17-20, 54-58), and wherein said terminal reproduces said sports competition contents as images based on pre-stored image data and said scenario data (see Figure 13, Column 2 lines 37-39).

15. With respect to claim 5, the Barstow reference teaches the data distribution method of claim 4 wherein said terminal reproduces said sports competition contents as CG based on CG data, which are stored as said pre-stored image data, and said scenario data (see Fig. 14-19, Column 12 lines 1-5, Column 15 table II).

16. With respect to claim 8, the Barstow reference teaches a data distribution method of distributing the contents of a sports competition that distributes image data

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related to the progression of said sports competition, scenario data that shows the progression of said sports competition (see claim 1 above), and a program (see Column 14 lines 31-37) that sequentially switches and displays said image data according to said scenario data. It is inherent that all recited items must be distributed to users or viewers either through communication network, retail distributor, or other methods of distributing data to receivers and thus, Barstow's teachings read on this claim.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 3, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barstow et al. (U.S. 6,204,862) in view of Moriguchi (U.S. 6,273,821).

19. The Barstow reference, as noted above, teaches all of limitations of claims 1 and 2 from which claim 3 depends, and of claims 4 and 5 from which claim 6 depends. However, Barstow fails to teach a system and a method of using such system that can distribute image data with the scenario data should the situation arises where the image data corresponding to the scenario data does not already exists in the receiver's terminal. Conversely, Moriguchi discloses of such limitations.

20. With respect to claim 3, the Moriguchi reference teaches the data distribution system that is further comprising: a special-scenario-data-registration means of registering unimagined conditions as special scenario data in said scenario data (see

Figure 3 Image Determination 118, Column 15 lines 34-35); and a special-image-data-creation means of creating image data that correspond to a said special scenario (Figure 3 Image Generation); and wherein said scenario-data-distribution means distributes said image data created by said special-image-data-creation means together with said scenario data when there is a said special scenario when distributing said scenario data (see Column 15 lines 37-43).

21. With respect to claim 6, the Moriguchi reference teaches the data distribution wherein said data-distribution apparatus registers unimagined conditions as special scenario in said scenario data (see Figure 4 step S6, Column 15 lines 34-35), creates image data corresponding to said special scenarios (Column 15 lines 27-28), and distributes said created image data together with said scenario data when there is a said special scenario included when distributing said scenario data (see Column 15 lines 37-43). Therefore, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to have modified the teachings of Barstow of minimizing the bandwidth usage when broadcasting a live event by utilizing the images computer graphics simulation method pre-stored on the receiving device with the teachings of Moriguchi in order to, as suggested by Moriguchi, recognize inadequate scenario data, create special scenarios and distribute them as needed in order to overcome the problem of when a needed image does not already exist in the receiving device to improve the user's experience (see Column 14 lines 40-43).

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Katayama reference teaches of the concept of invention similar to the applicant's claimed invention. Katayama teaches a method that allows users at remote locations to get information about the desired game and the pictures of the game at the desired time, which solves the same problems as stated in this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUPAPORN NILANONT whose telephone number is (571)270-5655. The examiner can normally be reached on Monday through Thursday and alternate Friday at 8:00 AM – 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Robertson can be reached on 571-272-4186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Y. N./
Youpaporn Nilanont
Examiner, Art Unit 4121
April 28, 2008

/David L. Robertson/
Supervisory Patent Examiner, Art
Unit 4113